



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON

A-59252

DEC 28 1934

The Honorable,

The Secretary of State.

Sir:

I have your letter of December 11, 1934, as follows:

"Among other matters taken up in his despatch No. 434 of September 20, 1934, the Honorable Leo R. Sack, American Minister to Costa Rica, requested an allotment of funds for an alteration of the Government-owned American Legation building at San Jose, in the following terms:

"Although I have not heretofore brought up this matter in a specific despatch and recommendation to the Department, while the extensive work soon to be undertaken is in progress I would like to very earnestly recommend, if the Department finds it convenient, the construction of an additional large room approximately 20 by 20 feet or 24 by 20 feet, on the north side of the east wing of the building, to be used for additional office space. The Legation building as it is at present constituted, while it is imposing and attractive, is not as well fitted for chancery purposes as it should be. The chancery is located in the lower floor east wing of the building, and the remainder of the building is used for formal entertaining and living purposes. The south room of the lower east wing is used as the Minister's office and also as a Legation library. The north rooms of the east wing are used by the Secretary, the three clerks, and the joint doorman-telephone operator, as well as housing all of the steel filing cabinets and three safes. This means actual overcrowding and insufficient privacy for the Secretary and the clerks. At the same time, it is not conducive of the highest efficiency on the part of any of the Government personnel. (In this connection, attention is called to pages 1 and 2 of my Report on Office Organization, and Administration dated July 9, 1934, File 124.66). Unfortunately, the upstairs rooms are so located that it is neither deemed advisable nor satisfactory to put the Minister's office upstairs in a room which of a necessity would cut into the middle of living quarters. From a standpoint of adequacy of living quarters and that privacy which even an American Minister is entitled to after office hours, I find that a residence in a chancery building robs the Minister of that privacy and personal freedom which he is entitled to and which most persons have after office hours.

"In other words, because the American Ministers to Costa Rica live and have lived in the Legation building for years, the Costa Rican public proceeds on the theory that the Minister's office hours are at all hours of the day. This situation, of course, is made worse at the immediate moment because the Minister's living quarters are confined to two rooms in the upstairs section of the east wing. I feel, therefore, that if after a study by the Foreign Service Buildings Office of the proposed plans, the Department will authorize the construction of an additional room on the north side of the east wing (plans and sketches to be prepared in the Department), the Government will be acting wisely and will be taking an opportune moment to provide amply for the future. There is sufficient ground in the east yard of the premises for such an extension, although this would necessitate, at small expense, the reallocation of the cement walk leading to the rear and to the kitchen and servants' quarters of the building. Should the additional large room be authorized, it is my idea that it be divided into two smaller rooms, separated by a composition board partition in the center, and with about a four-foot passage on the west side. This plan, of course, would necessitate the closing in of the two present doorways on the north side of the east wing as shown in the plans of the building on file in the Department, and the construction of new doors leading into the hallway. This, however, is a simple matter."

"In reply to this request, the Department included the following paragraph in its instruction No. 98 of October 24, 1934, to the Ministers:

"It is regretted that your proposal for the construction of an additional large room approximately 20' x 20' or 24' x 20' on the north side of the east wing of the building to be used for additional office space cannot be considered in connection with the present project. Inasmuch as the use of the contingent expense appropriation is restricted to repairs and minor alterations, new construction of the nature which you suggest could be effected only with the approval of the Foreign Service Buildings Commission and in pursuance of a special Congressional appropriation, inasmuch as there are now no unallotted funds at the disposal of the Commission."

"The Minister now requests reconsideration of the matter, by the following paragraphs from his despatch No. 512 of November 22, 1934:

"I have noted very carefully the last paragraph of the Department's Instruction No. 98, in which regret is expressed that the Department cannot authorize the construction of an additional room

on the north side of the east wing of the building to be used for very necessary and urgently needed additional office space for the efficient functioning of the Legation.

"In view of the fact that the proposed additional room will, in reality, constitute an alteration to the building, which, as a matter of fact, is what will be occurring throughout the entire building when the work is resumed, I wonder if the Department could see its way clear to authorize the enlargement of the present office space on the perfectly correct theory that the enlargement actually constituted an alteration and not new construction."

"The appropriation to which the cost of the work, if authorized, would be charged, is that for 'Contingent Expenses, Foreign Service, 1935,' (Public No. 143, 73d Congress, approved April 7, 1934) 48 Stat. 533 which authorizes

".....repairs, including minor alterations; repairs, supervision, preservation and maintenance of Government-owned diplomatic and consular properties in foreign countries, and properties acquired under the act approved May 7, 1926, as amended (U. S. C., Supp. VI, Title 22, Secs. 291, 296)."

"An expression of your views concerning the availability of the appropriation mentioned for the alteration recommended by the American Minister at San Jose will be appreciated."

Sections 3678 and 3733, Revised Statutes, provide:

"SEC. 3678. All sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they are respectively made, and for no others."

"SEC. 3733. No contract shall be entered into for the erection, repair, or furnishing of any public building, or for any public improvement which shall bind the Government to pay a larger sum of money than the amount in the Treasury appropriated for the specific purpose."

It appears from your submission that while the construction of the addition to the legation building at San Jose is desirable, the project has not been submitted to the Foreign Service Building Commission nor included in authorized or contemplated work at that place.

It is suggested that the enlargement actually constitutes an alteration and is not new construction. The only provision in the appropriation for "Contingent Expenses, Foreign Service, 1955," relating to public buildings, is the provision for repairs, including minor alterations; repairs, supervision, preservation and maintenance of Government-owned, diplomatic and consular properties in foreign countries. The word "alteration" means the act or process of altering, an effected change, as for instance, the erection of a partition dividing one room from another, changing a stairway, closing up a door or window, or cutting a new door or window, etc. The word "repair" means to make over, to restore to a good or sound state, as repairing the roofing, repairing windows or repairing the outside steps, etc. 29 Comp. Gen. 73.

It has been held uniformly that the provisions of the statutes quoted preclude the erection of any public building or public improvement - including an extension or addition to a public building - under an appropriation not providing specifically therefor. 3 Comp. Gen. 335. Accordingly, you are advised that the appropriation, "Contingent Expenses, Foreign Service" is not available for the construction of an addition or extension to the legation building at San Jose.

Respectfully,

(Signed) J. R. McCarl

Comptroller General
of the United States.